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Date:	December 14, 2005	Must Be Sent By:	
To:	Examiner O. Duong	Fax No:	(571) 273-8300
Company:	USPTO, Art Unit 2142	Phone No:	(571) 272-3983
Re:	In re Patent Application of Inventors: Krothapalli et al. Appln. No.: 09/765,077 Filing Date: January 17, 2001 Title: FRAME HANDLING FOR A THIN CLIENT		
From:	Anthony G. Smyth	Phone No:	858.509.4007
User No:	15636	C/M No:	090933-0276150

Comments:

Attachment(s):

Appeal Brief and Fee Transmittal for the above-identified application.

(Current Due Date: December 14, 2005)

CERTIFICATION UNDER 37 C.F.R. §§ 1.8 and/or 1.10*

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I hereby certify that, on the date shown below, this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to the Patent and Trademark Office, (571) 273-8300.

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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL for FY 2005

Complete if Known	
Application Number	09/765,077
Filing Date	January 17, 2001
First Named Inventor	Prasad Krothapalli
Examiner Name	Duong, Oanh L.
Art Unit	2155
Attorney Docket No.	090933-0276150

[X] Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 250

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fee Paid ($)
Utility	300	150 ~~160~~	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims _____ - 20 or HP = _____ x Fee ($) _____ = Fee Paid ($) _____

HP = highest number of total claims paid for, if greater than 20

Indep. Claims _____ - 3 or HP = _____ x Fee ($) _____ = Fee Paid ($) _____

HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims: Fee ($) _____ Fee Paid ($) _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets _____ - 100 = _____ Extra Sheets _____ /50= _____ Number of each additional 50 or fraction thereof (round up to a whole number) x Fee ($) 125.00 = Fee Paid ($) _____

4. OTHER FEE(S)

Fee Paid ($)

Non-English Specification, 130 fee (no small entity discount) _____

Other: Filing a brief in support of an appeal (fee code: 2402) 250.00

SUBMITTED BY			
Signature		Registration No. (Attorney/Agent) 55636	Telephone 858509.4007
Name (Print/Type)	Anthony Smyth		Date December 14, 2005

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Attorney Docket: 090933-0276150
Client Reference: EP-003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: PRASAD KROTHAPALLI, ET AL.

Application No.: 09/765,077 Group No.: 2155

Filed: January 17, 2001 Examiner: DUONG, Oanh L.

Title: FRAME HANDLING FOR A THIN CLIENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: Board of Patent Appeals and Interferences

APPELLANTS' BRIEF (37 C.F.R. section 1.192)

This brief is in furtherance of the Notice of Appeal, filed in this case on September 26, 2005. A Panel Decision from a pre-Appeal Brief Review reset the Appeal Brief due date to December 14, 2005.

The fees required under Section 1.17(c), and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL.

I. REAL PARTIES IN INTEREST (37 C.F.R. section 1.192(c)(1))

The real party in interest in this appeal is the following party: Everypath Inc., which has full title to the present application by assignment from the Appellants recorded on 8/2/2001 at Reel/Frame No. 012058/0559.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. section 1.192(c)(2))

There are no appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

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III. STATUS OF CLAIMS (37 C.F.R. section 1.192(c)(3))

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: **24**

B. STATUS OF ALL THE CLAIMS IN APPLICATION

Claims 1-24 are pending in the application and stand finally rejected.

C. CLAIMS ON APPEAL

The final rejections of all pending claims 1-24 are appealed.

IV. STATUS OF AMENDMENTS (37 C.F.R. section 1.192(c)(4))

The claims are unamended during prosecution and appear in original form

V. SUMMARY OF INVENTION (37 C.F.R. section 1.192(c)(5))

Independent claims 1, 15 and 20 of the present invention include methods that can be used for maintaining, at a server, frame context for a device that is unable to display multiple frames (Abstract). Responsive to a user's request, a telephone 102 sends to a server 112, context information, pointers and documents related associated with the request. The context information is created by a server and is associated with a data structure that maintains pointers corresponding to frames where the pointers point to documents (Specification, page 9, line 17 – page 10, line 24, Figs. 1 and 3). Examples of data structures are provided in the drawings and described in the Specification and Drawings (*see, e.g.*, Specification at page 9, line 29 – page 10 line 6, Fig. 2b).

VI. ISSUES (37 C.F.R. section 1.192(c)(6))

1. Whether claims 1, 11, 15 and 20-23 are unpatentable under 35 U.S.C. 102(e) as anticipated by U.S. Patent No. 6,593,944 to Nicolas et al. (hereinafter Nicolas).
2. Whether claims 2-10, 12-14, 16-19 and 24 are unpatentable under 35 U.S.C. 103(a) as being unpatentable over Nicolas in view of U.S. Patent No. 5,764,227, to Ishimine, (hereinafter Ishimine).

VII. GROUPING OF CLAIMS (37 C.F.R. section 1.192(c)(7))

The Claims of the group do not stand or fall together. Appellants contend the claims are separately patentable.

VIII. ARGUMENTS

This appeal is made necessary due to repeated rejections made for repeatedly flawed reasons based on flawed prior art. This application has been pending since January 17, 2001.

1. Claims 1, 11, 15 and 20-23 Are Patentable Because The Prior Art Does Not Disclose Or Suggest A Data Structure Or A Context Indicator Associated With The Data Structure

In the latest Office Action, the Examiner rejected independent claims 1, 11, 15 and 20-23 under 35 U.S.C. § 102(e) as being anticipated by Nicolas. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Examiner alleges that Nicolas teaches data structures and context indicators required by the claims notwithstanding a clear absence of express or inherent teachings in Nicolas of either data structures or context indicators associated with data structures. Nevertheless, the Examiner employs interpretations of both the claim language and the prior art that are clearly flawed to support for the rejections. Appellants respectfully submit that the resultant rejections of claims 1, 11, 15, and 20-23 are improper.

(a) Nicolas Does Not Teach A Data Structure Having Pointers Corresponding To Different Frames.

Independent claim 1 requires, *inter alia* "generating a first data structure having a first pointer for a first frame and a second pointer for a second frame." Independent claim 15 requires *inter alia* "generating a list including at least one data structure; wherein each data structure includes at least two pointers and each of the at least two pointers corresponds to a different respective frame." Independent claim 20 requires, *inter alia* "receiving at a device a context indicator that points to a data structure on a server; wherein the data structure has at least two pointers each of which corresponds to a different respective frame." Thus, the independent claims require, as a minimum, a data structure having pointers associated with different respective frames. Nicolas teaches no such data structure.

Appellants' repeated assertion that Nicolas does not expressly teach a data structure remains undisputed by the Examiner. However, the Examiner attempts to redefine "data structure" to support the claim rejections. Specifically, in the Final Office action the Examiner attempts to address the absence of data structures from the cited art as follows:

> ...examiner asserts that in technology information about data structure, the definition of 'data structure' is 'a physical layout of data', a data file is an example of data structure as defined by Computer Desktop Encyclopedia.

(Office Action of 5/25/2005, Examiner's Response to Arguments, 1(A) at page 2). Thus, the Examiner relies on a generalized definition of "data structure" that more accurately defines the phrase "structure of data." It is well accepted that a data file is merely a computer file that stores data for use by a computer application or system and used specifically to store information used as input, and/or written as output by some other software program. (*See, for example,* http://en.wikipedia.org/wiki/Data_file). This latter definition of data files is supported by Nicolas itself, where it is taught that files "may store graphics, scripts, audio data, or any other type of data" (*see* col. 10, lines 35-40). Appellants respectfully submit that the interpretation of "data structure" selected by the Examiner is inconsistent with definitions commonly accepted in the art.

The term data structure is consistently defined in various references. In one example, the United States' National Institute of Standards and Technology ("NIST") defines a data structure as:

> "[a]n organization of information, usually in memory, for better algorithm efficiency, such as queue, stack, linked list, heap, dictionary, and tree, or conceptual unity, such as the name and address of a person. It may include redundant information, such as length of the list or number of nodes in a subtree"

(http://www.nist.gov/dads/HTML/datastructur.html). Definitions of data structure consistent with the NIST definition can be found in 20 year old programming guides such as "C Primer Plus" by Waite, Prata and Martin (first published by The Waite Group in 1984). In choosing to use a generalized, overly-broad definition obtained from answers.com, the Examiner ignored a second, detailed definition provided on the same page of the website (*see* http://www.answers.com/data%20structure). This second, detailed

definition does not support the Examiner's rejections but is consistent with the NIST definition of data structure and with the definition understood in the art (*see* http://en.wikipedia.org/wiki/Data_structure). Appellants respectfully submit that the Examiner erred by selectively adopting a generalized definition of data structure as being equivalent to a data file and ignoring the well-understood definition of the term.

Furthermore, the Examiner is prohibited from choosing a definition of "data structure" that is clearly inconsistent with commonly accepted usage and with usage by Appellants in the Specification. "If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with applicant's use of the terms." MPEP 2111.01, *citing Brookhill-Wilk 1*, 334 F. 3d at 1300, 67 USPQ2d at 1137; see also *Renishaw PLC v. Marposs Societa" per Azioni*, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998) ("Where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings."). In redefining data structure, the Examiner cites and an extrinsic reference source that provided more than one definition for term and ignores the meaning provided in the Specification (http://www.answers.com/data%20structure). For example; in the Specification it is taught that:

> Server 112 then creates 320 a data structure which describes the relationship among the frames. In one embodiment the **data structure is a tree**. Figure 2b illustrates a tree 250 for a frameset having three frames. The root of the tree is the frameset, Fo. The tree has one pointer for each frame in the frameset. Each pointer is a URL that points to a document that the frameset indicates is associated with the frame.

(Specification at page 9, line 28 – page 10, line 1). This latter description is most consistent with the definition provided by the NIST. It is respectfully submitted that this description in the Specification is consistent with the NIST definition of data structure because the NIST definition explicitly describes data structures has having an organization that can be a tree. The definition proposed by the Examiner does not describe a data file as a tree and it is respectfully submitted that a skilled artisan would not attribute a tree structure to a data file.

The Specification also teaches that a "Server 112 then stores 340 the data structure in a list" (Specification at page 10, line 6-7). Appellants respectfully submit that it would be appreciated by a skilled artisan that, while data structures as defined by NIST and the Specification are amenable to storage in a list such as a linked list, data files are not known as being stored in any list. Thus, the definition adopted by the Examiner is clearly inconsistent with Appellants' use of the term. In order to sustain the rejection of the claims, the Examiner has improperly adopted a definition of data structure inconsistent with the commonly accepted definition of the term and inconsistent with the Appellants' use in the Specification.

Even allowing *arguendo* such expansive reinterpretation of the terms "data structure" and "data file," the Examiner's rejection cannot be justified. Nicolas does not teach generating a data structure as required in claims 1 and 15 or generating a data file. The term "data file" is expressly used only in the claims of Nicolas and can be derived only by inference from the Specification of Nicolas (Nicolas at col. 10, lines 35-40). As used in the Nicolas claims, data files are merely *retrieved*, not generated as required in the present claims.

For at least these reasons, it is clear that the Examiner erred in defining the term "data structure" inconsistently with Appellants use in the Specification.

(b) Nicolas Does Not Teach A Context Indicator Associated With A Data Structure.

Independent claim 1 requires, *inter alia* "associating a first context indicator with the first data structure." Independent claim 15 requires *inter alia* "data structure has a corresponding respective context indicator." Independent claim 20 requires, *inter alia* "receiving at a device a context indicator that points to a data structure on a server." Thus, the independent claims require, as a minimum, a context indicator associated with a data structure having pointers associated with different respective frames. As discussed *supra*, Nicolas does not teach a data structure. Further, Nicolas does not teach a context indicator associated with a data structure.

Appellants' repeated assertion that Nicolas does not expressly teach "context indicator" remains undisputed by the Examiner. However, the Examiner improperly applies an unjustifiably broad definition to the term context indicator in an attempt to

redefine the meaning as equivalent to either Nicolas' "frame identifier" or universal resource locators ("URLs"). Neither redefinition is appropriate or warranted.

In the Final Office Action, the Examiner claims justification for the redefinition of the "context indicator" citing a specific discussion in the present Specification that states:

> Server 112 then assigns 330 a context indicator to the data structure. The context indicator can be a number or any alphanumeric identifier that uniquely identifies the data structure. For example, the context indicator here could be 1. Server 112 then stores 340 the data structure in a list.

(Specification, lines 3-6). Notwithstanding the Examiner's claim of giving "a broadest reasonable interpretation of 'context identifier' [sic]," it is readily apparent that the term is fully and explicitly described in the Specification and needs no further interpretation. The Examiner's redefinition of "context indicator" is based only on the portion of the cited description that teaches the context indicator as being a number or an alphanumeric identifier. However, the Examiner errs by ignoring the requirement that the number or the alphanumeric identifier ***uniquely identifies the data structure***. In the description, the context indicator is assigned to a data structure that it uniquely identifies and it is clear that the terms data structure and context indicator are closely connected in the invention. The Examiner also chooses to disregard the provision in the description that permits the context indicator to be a number (*see, also,* Final Office Action at page 2). Appellants respectfully submit that the broadest reasonable interpretation of context indicator must account for numeric context indicators, the data structure and the relationship between context indicator and the data structure to which it is assigned. Because the Examiner ignores the context in which context indicator is defined in the present Specification and dismisses multiple elements of the written description, the redefinition is unreasonably broad and rejections based on the redefinition are improper.

For at least the reasons provided, Appellants respectfully submit that the Examiner committed clear error in reinterpreting the terms "data structure" and "context indicator." The Examiner ignored clear descriptions in the present Specification and Drawings and chose overly-broad definitions that are inconsistent with Appellants' usage of the terms in the Specification and Drawings. Further, the Examiner's redefinitions are inconsistent

with definitions accepted and understood by those of ordinary skill in the art. Therefore, the Examiner's rejections of the independent claims under §102 are improper and should be withdrawn. Additionally, the dependent claims of the Application include additional limitations to the elements improperly redefined by the Examiner and it is submitted that these rejections also lack proper grounds.

2. Claims 2-10, 12-14, 16-19 and 24 Are Patentable Over Nicolas And Ishimine Because Ishimine Does Not Cure The Deficiencies Of Nicolas

In the latest Office Action, the Examiner rejected claims 2-10, 12-14, 16-19 and 24 under 35 U.S.C. § 103 as being rendered obvious by Nicolas in view of Ishimine. As discussed above, Nicolas does not teach, *inter alia*, a data structure and a context indicator as required in independent claims 1, 15 and 20. Each of the claims rejected under §103 depends from one of the independent claims and is patentable for at least the reason that the independent claims are patentable. Further, Ishimine does not teach, suggest or render obvious any of the elements of the claims including the required data structure and context indicator as recited in the independent claims.

Therefore, for at least these reasons the §103 rejections should be withdrawn.

Date: December 14, 2005

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Signature

Date: December 14, 2005

SACHIKO Y SNEDDEN
(type or print name of person certifying)

* *Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

CLAIMS

1. (Original) A method for maintaining at a server frame context for a device, the method comprising:

generating a first data structure having a first pointer for a first frame and a second pointer for a second frame;

associating a first context indicator with the first data structure; and

sending from a server to a device the first context indicator, the first pointer, and a first document pointed to by the first pointer.

2. (Original) The method of claim 1, further comprising:

receiving at a server from the device the first context indicator, the first pointer, and a request;

generating based on the request a second data structure with a third pointer for the first frame and a fourth pointer for the second frame.

3. (Original) The method of claim 1, further comprising:

receiving at a server from the device a request; and

generating based on the request a second data structure having a third pointer for the first frame and a fourth pointer for the second frame.

4. (Original) The method of claim 2, further comprising assigning the first context indicator and the first pointer to a current context indicator.

5. (Original) The method of claim 2, further comprising:

associating a second context indicator with the second data structure; and

sending to the device the second context indicator, the third pointer, and a second document pointed to by the third pointer.

6. (Original) The method of claim 2, further comprising:

associating a second context indicator with the second data structure; and

assigning the second context indicator and the third pointer to a current context indicator.

7. (Original) The method of claim 2, further comprising:

associating a second context indicator with the second data structure; and

sending to the device the second context indicator, the fourth pointer, and a second document pointed to by the fourth pointer.

8. (Original) The method of claim 2, further comprising:

associating a second context indicator with the second data structure; and

assigning the second context indicator and the fourth pointer to a current context indicator.

9. (Original) The method of claim 2, further comprising:

associating a second context indictor with the second data structure; and

placing the first context indicator and the second context indicator into a list in the relative order that the first context indicator and the second context indicator were generated.

10. (Original) The method of claim 2, further comprising:

assigning the first context indicator and the first pointer to a current context indicator;

wherein assigning the first context indicator precedes receiving at a server from the device the first context indicator;

assigning the second context indicator and the third pointer to the current context indicator;

wherein assigning the second context indicator occurs after receiving at a server from the device the first context indicator.

11. (Original) The method of claim 2, wherein the first pointer and the third pointer point to different documents.

12. (Original) The method of claim 2, wherein the second pointer and the fourth pointer point to different documents.

13. (Original) The method of claim 2, further comprising:

associating a second context indicator with the second data structure;

placing the first context indicator and the second context indicator into a list in the relative order that the first context indicator and the second context indicator were generated.

14. (Original) The method of claim 2, further comprising:

generating a third data structure with a fifth pointer to the first frame and a sixth pointer to the second frame;

associating a third context indicator with the third data structure;

sending the third context indicator, the fifth pointer, and a third document associated with the fifth pointer to the device;

receiving at the server from the device the first context indicator, the first pointer, and a request; and

generating based on the request a fourth data structure with a seventh pointer for the first frame and an eighth pointer for the second frame.

15. (Original) A method for maintaining at a server frame context for a device that is unable to display multiple frames, the method comprising:

generating a list including at least one data structure;

wherein each data structure includes at least two pointers and each of the at least two pointers corresponds to a different respective frame;

wherein each data structure has a corresponding respective context indicator; and

sending from a server to a device a first context indicator, a first pointer, and a first document pointed to by the first pointer.

16. (Original) The method of claim 15, further comprising:

receiving at the server from the device the first context indicator, the first pointer, and a request;

generating based on the request a new data structure;

associating a new context indicator with the new data structure;

placing the new data structure into the list; and

sending from the server to the device a new context indicator, a new pointer which is associated with the new data structure, and a new document pointed to by the new pointer.

17. (Original) The method of claim 16, further comprising:

assigning the first context indicator and the first pointer to a current context indicator; and

wherein the assigning the first context indicator occurs before receiving at the server from the device the first context indicator.

18. (Original) The method of claim 17, further comprising reassigning the first context indicator and the first pointer to the current context indicator after receiving at the server from the device the first context indicator.

19. (Original) The method of claim 16, wherein generating is also based on the first context indicator and the first pointer.

20. (Original) A method for maintaining frame context, the method comprising:

receiving at a device a context indicator that points to a data structure on a server;

wherein the data structure has at least two pointers each of which corresponds to a different respective frame; and

receiving at the device one of the at least two pointers and a document associated with the one of the at least two pointers.

21. (Original) The method of claim 20, the method further comprising sending from the device to the server the context indicator and the one of the at least two pointers.

22. (Original) The method of claim 21, wherein the sending occurs when a user backtracks to the document pointed to by the one of the at least two pointers and makes a request associated with the document.

23. (Original) The method of claim 21, the method further comprising sending from the device to the server a request associated with the contest indicator and the one of the at least two pointers.

24. (Original) The method of claim 20, the method further comprising storing the context indicator, the one of the at least two pointers and the document associated with the one of the at least two pointers.